

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROCKWELL AUTOMATION
TECHNOLOGIES, INC.,

Plaintiff,

v.

SECURE CROSSING RESEARCH
AND DEVELOPMENT INC.,

Defendant.

Case No. 2:12-cv-10274-GCS-MKM

Honorable George Caram Steeh
Magistrate Mona K Majzoub

**NOTICE TO COURT REGARDING COMPLIANCE WITH FEBRUARY 1, 2013
ORDER REGARDING PROTECTIVE ORDER**

Defendant Secure Crossing Research and Development Inc. (“Secure Crossing”) hereby notifies the Court, pursuant to its February 1, 2013 Order, that the parties have been unable to reach agreement regarding a Stipulated Protective Order concerning the subject matter raised in (a) Secure Crossing’s Motion to Quash (Dkt. 68), (b) Secure Crossing’s Supplemental Brief regarding Motion to Quash (Dkt. 72), and (c) during the February 1, 2013 Telephonic Conference before the Magistrate Judge Mona K. Majzoub. In an effort to resolve **all** outstanding discovery disputes, the urgency of which was precipitated specifically by the subpoenas issued by Plaintiff Rockwell to non-party Chris Buechler (and the related motion to compel filed by Rockwell in Texas), Defendant negotiated in good faith to reach agreement with Plaintiff Rockwell. The negotiations took place primarily between the undersigned (as counsel for Secure Crossing), on the one hand, and Ms. Swedlow and Mr. Martinez (as counsel for Rockwell), on the other. The undersigned was informed that Mr. Tanck, Rockwell’s lead counsel, was traveling and – in his absence – Ms. Swedlow and Mr. Martinez were authorized to negotiate the protective order resolving the outstanding issues.

The parties did reach agreement, which agreement includes several **significant** concessions by Secure Crossing regarding discovery of Secure Crossing's highly confidential and proprietary information. Secure Crossing does not believe that discovery of this information is appropriate or warranted under governing rules and law, and these various arguments have been made (and remain pending) in this Court. Notwithstanding Secure Crossing's arguments against production of this information in its entirety, Secure Crossing agreed to production upon the terms provided for in the proposed protective order submitted by Secure Crossing on February 4, 2013 (and provided to opposing counsel via email). This Order, in part, specifically addresses the production of documents and testimony by Chris Buechler.

Upon final confirmation of the agreement of the parties (via email), and within moments of the joint submission to the Court, the undersigned was informed that Mr. Tanck was off of the plane on which he was traveling and he refused to agree to set aside the Texas order compelling production by Chris Buechler and dismiss the related Texas matter. At 5:03 pm on February 4, 2013, a phone call was concluded among the undersigned, Mr. Tanck, Ms. Swedlow and Mr. Martinez, in which Mr. Tanck said in essence that the parties submit the protective order as an agreed order, and Mr. Buechler still produces documents pursuant to the Texas order today (February 5, 2013), or Rockwell will just submit on their own – which it did. Rockwell through its counsel, Mr. Tanck) did not operate in good faith, did not intend to resolve the outstanding issues, and continues to operate outside the rules and law in this matter.

Secure Crossing would **NOT** have agreed to the concessions included in the proposed protective order had Mr. Tanck's intentions been disclosed honestly. Secure Crossing submitted, via the Court's ECF proposed order link, the proposed Protective Order that was negotiated to resolve all outstanding disputes, including the Chris Buechler subpoenas. Whether or not this

Court ultimately determines that it has jurisdiction over the subpoenas (and/or Mr. Buechler), the Court certainly has jurisdiction over Rockwell's receipt and use of any information in this matter.

Dated: February 5, 2013

/s/ Elana H. Gloetzner
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COUNSEL FOR DEFENDANT Secure Crossing
Research and Development Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of February, 2013, a copy of this document is being served by using the Court's EFC system, which will serve counsel of record by email notice.

Dated: February 5, 2013

/s/ Elana H. Gloetzner
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